

**REMARKS**

This response is submitted in response to the Final Office Action dated June 4, 2004, and Applicants respectfully request that the Examiner reconsider the rejection of the claims as set forth therein. In the event that the Examiner determines that the foregoing Amendments do not place the application in condition for allowance, it is respectfully requested that the foregoing Amendments be entered to place the claims in better form for consideration upon appeal.

The Examiner has objected to Claim 11 because of an informality: in line 3, one of the words "added" or "communicated" is unnecessary. The Examiner requests correction.

In response, the Applicants have amended Claim 11 to delete the limitation of "added", as follows: -- ...the current leader server further programmed for adding a new license code to the pool in response to an add license code message containing a license code to be ~~added~~ communicated to a license server --. Consequently, in view of the amendment to Claim 11, the Applicants respectfully request that the Examiner withdraw the objection to Claim 11.

At the outset, prior to addressing the merits of the issues raised in the Office Action, the Applicants call to the Examiner's attention that in order to enhance the recitation of the limitations of the present invention, Claim 1 has been amended to recite the limitations of -- wherein each license server in the pool can directly communicate with the at least one client computer coupled to the communication network, and wherein each license server in the pool manages the distribution of allocations substantially in the same manner as the other license servers in the pool.--

Similarly, analogous method Claim 16 has been amended also to enhance the recitation of the limitations of the present invention to add the limitations of --wherein each license server in the pool can communicate directly with the at least one client computer coupled to the communication network, and wherein each license server in the pool manages the distribution of allocations substantially in the same manner as the other license servers in the pool.--

Support for the amendment to Claims 1 and 16 is found in the specification on page 9, lines 3-12, wherein the following is disclosed:

An example hardware environment for an embodiment of the present invention is illustrated, generally in FIG. 1. With reference to FIG. 1, a computer network 10 includes a plurality of user or client computers 12 and three license servers 14, each coupled for communication over a communication network link, generally referenced at 16. The plurality of client computers 12 are identified as "Client 1", "Client 2", and "Client N", and the plurality of license servers 14 are labeled as "Lic. Server A", "Lic. Server B", and "Lic. Server C." Embodiments may employ any suitable number of client computers 12 and any suitable number of license servers 14. Also, while not shown in FIG. 1, the network 10 may include additional components, including one or more program or file servers, routers and/or other well known network devices and resources.

Therefore, FIG. 1 also supports the amendments to Claims 1 and 16 that --each license server in the pool can directly communicate with the at least one client computer coupled to the communication network--, by disclosing that the license servers 14 communicate with the client computers 12 directly through communication network link 16.

Page 9, lines 24-29, of the specification discloses the following:

Each license server 14 preferably includes a suitable processor and associated transient memory, such as an RAM, for running a license management program as described herein. In addition, each license server 14 is coupled to one or more persistent program storage memory devices 20, which may include, but is not limited to, a hard disc drive, floppy disc drive, tape drive, CD-ROM or the like, having a computer readable medium on which a license management program 22 and a redundant license file (RLF) 24 are stored.

Therefore, the foregoing paragraph, by disclosing that each license server 14 preferably includes a suitable processor and associated transient memory, supports the amendments to

Claims 1 and 16 of -- wherein each license server in the pool manages the distribution of allocations substantially in the same manner as the other license servers in the pool.--

As a result, no new matter has been added by the amendments to Claims 1 and 16.

The Examiner has rejected Claims 1, 16, 18 and 30-32 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,189,146 B1 to Misra et al., issued February 13, 2001.

The Examiner has rejected Claims 33 and 19-29 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,189,146 B1 to Misra et al. in view of U.S. Patent Number 5,752,041 to Fosdick, issued May 12, 1998.

The Examiner has rejected Claims 2-15 and 17 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Number 6,189,146 B1 to Misra et al. in view of U.S. Patent Number 5,752,041 to Fosdick, and U.S. Patent Number 5,950,214 to Rivette et al., issued September 7, 1999.

In the Response to Arguments, on page 10, paragraph 38, the Examiner refers to the Applicants' arguments filed on March 16, 2004 that in the Misra reference, the "license clearinghouse" 22 is not a license server in a pool of license servers because the "license clearinghouse" itself does not distribute licenses to clients or manage licenses for clients. The Examiner disagrees, asserting that "license clearinghouse" does distribute and manage licenses for clients, however, it does not do this directly with the clients. The Examiner indicates that the claims language does not require a direct relationship and therefore Misra is considered to teach the claimed invention as considered in its broadest interpretation. The Examiner also points out that pool is defined as "a combination of resources in a common fund or effort" and therefore the term pool in the claims does not require all of the license servers to be identical or to perform functions in an identical manner.

In response to the foregoing rejections, the Applicants maintain that neither Misra et al., nor Fosdick, nor Rivette al., taken alone or in combination, disclose, teach or suggest the limitations of now more specifically amended Claims 1 and 16 of each license server in the pool

can directly communicate with the at least one client computer coupled to the communication network, and each license server in the pool managing the distribution of allocations substantially in the same manner as the other license servers in the pool.

Rather, the Misra et al. patent discloses in column 3, line 59, to column 4, line 8, the following:

FIG. 1 shows a system 20 for licensing software. The system 20 has a licensing clearinghouse 22 that creates and issues valid software licenses to one or more companies, firms, agencies, or other entities, as represented by company 24. The clearinghouse 22 is a separate entity from the company 24. Examples of the clearinghouse include a software manufacturer, a software vendor, or a third party agent that is authorized to issue software licenses on behalf of the software manufacturer or vendor.

The company 24 contacts the clearinghouse 22 when it desires to purchase a software license to run software on the company computers. The clearinghouse 22 has a license generator 26 that creates a "license pack" containing a set of one or more individual software licenses. The clearinghouse 22 encrypts the license pack using the destination license server's public key and digitally signs the license pack with a digital signature unique to the clearinghouse.

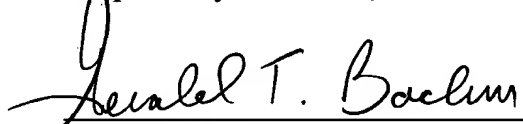
Therefore, the Misra et al. patent discloses in FIG. 1 that the client computers 30(1) through 30(6) do not communicate directly with the license clearinghouse 22 but rather only the license server 28, which is part of the Company 24, communicates directly with the clearinghouse 22.

Furthermore, the Fosdick patent teaches in FIG. 2 that client personal computer 50 communicates with Client License 64 through CA/400 Server 62 residing in AS/400 System A 56. The Rivette et al. patent does not disclose, teach or suggest in any manner a license server, nor for that matter does the Rivette et al patent disclose a license server in a pool directly communicating with the at least one client computer coupled to the communication network.

It is respectfully urged that Claims 1 and 16 are now in proper form for allowance and such action is respectfully solicited. As a result, the Applicants respectfully request the Examiner to reconsider the claims in view of the new limitations added to the claims, and to withdraw the rejections of Claims 1 and 16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 6,189,146 B1 to Misra et al.

In view of the foregoing Remarks, the Applicants respectfully request that the Examiner enter this amendment. It is respectfully urged that the foregoing Amendment and Remarks establish the patentable nature of all of the claims in the application, i.e., Claims 1-33. No new matter has been added and no new issues have been raised. Wherefore, early and favorable reconsideration and issuance of a Notice of Allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "Gerald T. Bodner", is written over a horizontal line.

Gerald T. Bodner  
Attorney for Applicants  
Registration No. 30,449

BODNER & O'ROURKE, LLP  
425 Broadhollow Road, Suite 108  
Melville, NY 11747  
Telephone: (631) 249-7500  
Facsimile: (631) 249-4508

GTB/ANF/jkl